

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : OFFICE OF PETITIONS
Rabbani et al. : Ms. Nancy Johnson
Application No. 09/896,897 : Senior Petitions Attorney
Filed: June 30, 2001
Atty Docket No. ENZ-60 Confirmation No.: 1538

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CLARIFICATION

Dear Commissioner:

This is a Request for Clarification relative to concurrent Office actions issued in the above-captioned application.

Petitioner respectfully urges that no fees are due for this clarification request. Should the PTO determine, however, that any fees are required to have Clarification issued, including any extension of time fees, the PTO is authorized to charge Deposit Account No. 50-2929, making reference to Docket Number J10018.

Background

A first Order to Show Cause Why Decisions Reviving Applications Should not be Vacated (OTSC) was mailed on June 30, 2008 in the present application, setting a two month extendable period for response. In Response to the OTSC, a Request to Vacate this OTSC and a Request to Expunge Confidential information from Public Records were filed on December 31, 2008, along with a Petition for Expedited Consideration thereof. On June 5, 2009, the Office granted the Request to Expunge the Confidential Applications from the OTSC, determined that issuance of a substitute redacted OTSC (page 5) was in order and dismissed the Request to Vacate the OTSC (page 8). The June

5, 2009 Decision set a two month period for response that is unclear as to extendibility.

On June 8, 2009, a second OTSC was issued setting a two month non-extendible period for response.

Clarification Request

The above-mentioned June 5, 2009 decision is inconsistent as to the period for filing a response to the June 30, 2008 OTSC. The two month period set for response is indicated on page 1, to be not extendible, while at the same time is indicated to be extendible on page 14. Therefore, it is unclear as to whether Petitioner must file a response by August 5, 2009; August 8, 2009; or January 5, 2010.

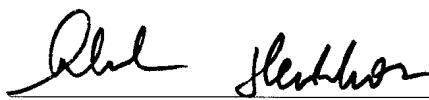
Furthermore, In view of the grant of Petitioner's Request to Expunge Confidential Applications from the June 30, 2008 OTSC, the same June 5, 2009 decision determined that the June 30, 2008 OTSC would be expunged and that a substitute redacted OTSC would issue. Because the June 30, 2008 OTSC is expunged, it would appear that any deadlines set in that OTSC are no longer controlling. Furthermore, it is not clear what is the effect of the dismissal of June 5, 2009, because that decision dismissed Petitioner's request to have a PTO order vacated, which Order is now expunged according to the second Order issued on June 8, 2009. Therefore, with the mailing of the June 8, 2009 redacted OTSC, it is unclear as to whether Petitioner is concurrently bound by (i) a two month non-extendible period for response set forth in the June 5, 2009 (i.e. August 5, 2009 maximum deadline); or (ii) the 2 month extendible, or perhaps non-extendible period for response set forth in the June 8, 2009 OTSC (i.e., August 8, 2009, or perhaps January 8, 2010 maximum deadline).

Additionally, Petitioner submits that the June 8, 2009 OTSC does not appear to be a substitute redacted copy of the June 30, 2008 OTSC. A substitute redacted copy of the June 30, 2008 OSTC would be one with the same content as the one issued previously, with exception of the confidential matter determined to be expunged. However, the June 8, 2009 OTSC sets a two month period for response that is non-extendible, in contrast to the two month extendible period set in the OTSC mailed on June 30, 2008. It is well settled in the regulations and the MPEP that applications are not to be subjected to different time periods running at the same time.

Due to the above-mentioned inconsistencies (as well as inconsistencies in time periods set in this application as compared to other applications subject to a similar OTSC), Petitioner respectfully requests that the PTO set a single time period for requesting Reconsideration, which period is to run from the date of the issuance of a clarification by the Office. Early notification is respectfully requested.

Respectfully submitted,
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